

AMENDMENTS TO THE DRAWINGS:

The attached sheets of drawings include changes to Figs. 10A and 12. These sheets, which include Figs. 10, 10A and 12, replace the original sheets including Figs. 10, 10A and 12. In Fig. 10A, reference numeral 932 is changed to 922 for consistency with the specification. In Fig. 12, reference numeral 1118 is changed to 1108 for consistency with the specification.

Attachments: Two (2) Replacement Sheets

Two (2) Annotated Sheets Showing Changes

REMARKS

This Amendment responds to the office action mailed November 17, 2006. Claims 1, 3-12, 14, 15, and 17-20 are currently pending. Claims 1, 3, 15 and 17 have been amended herein. Claims 2, 13 and 16 and 21-27 have been canceled without prejudice or disclaimer. New claims 28-30 have been added, support for which may be found at least in the originally filed claims and at paragraph 18 of the published application. The specification and Figs. 10 and 12 have also been amended to correct readily apparent minor errors. Reconsideration of the application is respectfully requested.

Claims 1-3, 14, 15-17 and 20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,962,622 ("*Albrecht*"). (Office Action, p. 2). To establish a *prima facie* case of anticipation under 35 U.S.C. § 102, the Examiner must demonstrate that a single prior art reference discloses all of the claim's essential elements.¹ Thus, the "exclusion of a claimed element from a prior art reference is enough to negate anticipation by that reference."² Claims 1 and 15 have been amended, and it is respectfully submitted that these claims are not anticipated by *Albrecht*.

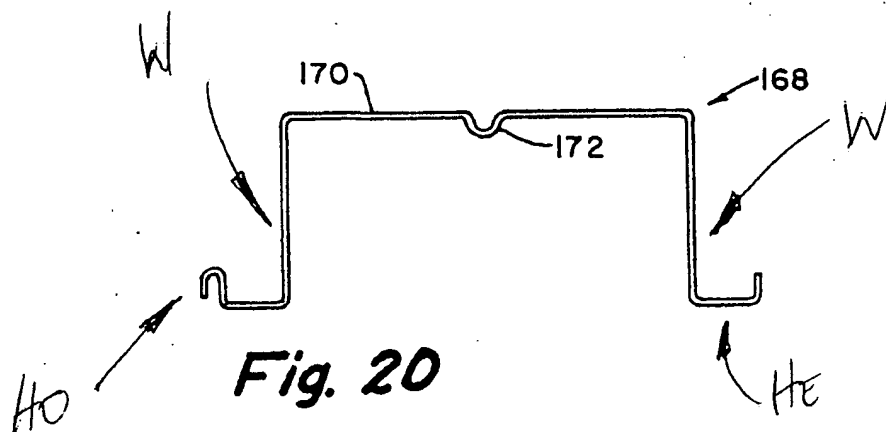
Claim 1 recites a building panel, comprising a curved central portion and a pair of side wall portions extending from the opposite ends of the curved central portion. Claim 1 also recites that the curved central portion is concave-shaped from a perspective between the side wall portions and that the sidewall portions comprise straight portions that extend tangentially from the concaved-shaped curved central portion. Claim 1 also recites a pair of complementary

¹ *E.g., Rockwell Inter. Corp. v. U.S.*, 147 F.3d 1358, 1363, 47 U.S.P.Q.2d 1027, 1031 (Fed. Cir. 1998); *Gechter v. Davidson*, 116 F.3d 1454, 1457, 43 U.S.P.Q.2d 1030, 1032 (Fed. Cir. 1997); *In re Donohue*, 766 F.2d 531, 534, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985); *W.L. Gore & Associates v. Garlock, Inc.*, 721 F.2d 1540, 1554, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984).

² *Atlas Powder Co. v. E.I. du Pont De Nemours & Co.*, 750 F.2d 1569, 1574, 224 U.S.P.Q. 409, 411 (Fed. Cir. 1984).

wing portions extending from the side wall portions. Claim 15 recites a building structure comprising a plurality of interconnected panels, each of which includes features such as noted above in connection with claim 1.

The Examiner alleges that “stiffening rib 172” illustrated in Fig. 20 of *Albrecht* (reproduced below with the Examiner’s hand drawn markings)³ corresponds to the claimed curved central portion, and that “flat region or crest 170” corresponds to the claimed side wall portions. (Office Action at p. 2.)⁴



It is abundantly apparent that *Albrecht* does not disclose side wall portions comprising straight portions that extend tangentially from a concave-shaped curved central portion since the alleged side walls 170 of *Albrecht* do not extend tangentially from the stiffening rib 172, which is alleged to correspond to the claimed concave-shaped curved central portion. Rather, Fig. 20 of *Albrecht* shows a flat region 170 with a stiffening rib 172 formed therein, such that there is a substantial reverse in curvature from the stiffening rib 172 to the flat region 170. In addition, as previously described at length in the record, the present application clearly distinguishes the claimed curved central portion from a stiffening rib or notch. Accordingly, claims 1 and 15 are

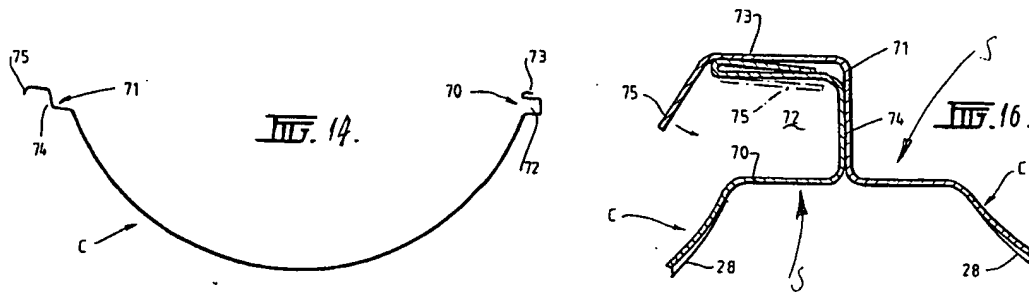
³ FIG. 20 of *Albrecht* as marked up by the Examiner was provided with the Office Action of November 17, 2006.

⁴ See, e.g., *Albrecht* at col. 7, lines 62-64 for *Albrecht*'s use of this terminology.

not anticipated by *Albrecht* for at least these reasons. Dependent claims 3, 14, 17 and 20 are distinguishable at least by virtue of their dependency from either claims 1 or 15. Withdrawal of the rejection is respectfully requested for at least these reasons.

Claims 1-3, 8, 9, 14, 15-17, 19 and 20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,282,936 ("*Blazley*"). (Office Action, pp. 2-3). It is respectfully submitted that claims 1 and 15 are not anticipated by *Blazley*.

The Examiner cites Figs. 14 and 16 of *Blazley* (reproduced below with the Examiner's hand drawn markings)⁵ as allegedly disclosing the subject matter of claims 1 and 15.



The Examiner alleges that portions of the male edge flange 70 and female edge flange 71 of *Blazley* correspond to the claimed side walls (hand labeled by the Examiner as "S" in Fig. 16 of *Blazley*) and that the section labeled "C" corresponds to the claimed curved central portion. (See *Blazley* at Col. 10, lines 36-49 for *Blazley*'s use of terminology.)

However, it is readily apparent that that *Blazley* does not disclose side wall portions comprising straight portions that extend tangentially from a concave-shaped curved central portion since the portions labeled "S" do not extend tangentially from the section labeled C. Rather, there is a substantial reverse in curvature from the section C to the portions labeled S.

⁵ FIG. 16 of *Blazley* as marked up by the Examiner was provided with the Office Action of November 17, 2006.

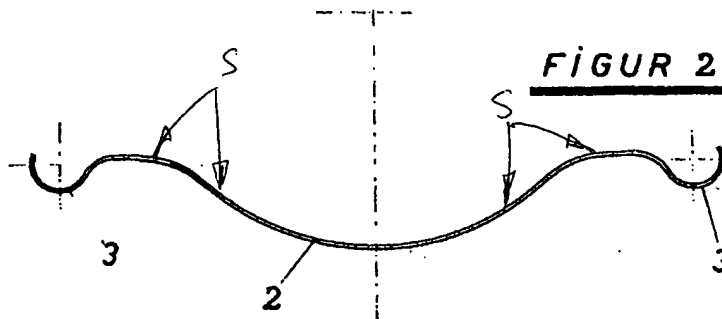
Moreover, a proper assessment of *Blazley* in view of the description of side wall portions and wing portions in the present application (*see, e.g.*, wing portions 908 and 910 shown in Figs. 9 and 10 of the present application) reveals that the building elements shown in Figs. 14 and 16 of *Blazley* do not possess side wall portions whatsoever. At most, the male edge flange 70 and female edge flange 71 might correspond to the claimed complementary wing portions. Viewed in this light, Figs. 14 and 16 of *Blazley* illustrate building elements having a curved portion that terminates directly at male edge flange 70 and female edge flange 71 with no side wall portions having straight portions whatsoever therebetween.

Accordingly, *Blazley* does not anticipate claims 1 and 15 for at least these reasons. Claims 3, 8, 9, 14, 16, 17, 19 and 20 are distinguishable at least by virtue of their dependency from claims 1 or 15. Withdrawal of the rejection is respectfully requested for at least these reasons.

Claims 1, 12 and 13 stand rejected under 35 U.S.C. § 102(b) as being anticipated by German Patent No. 1684709 (“DE ‘709”) or British Patent No. 770062 (“GB ‘062”). (Office Action, p.3). Claim 13 has been canceled, its subject matter being incorporated into claim 1. It is respectfully submitted that claims 1 and 12 are not anticipated by either DE ‘709 or GB ‘062.

With regard to DE ‘709, the Examiner cites to Fig. 2 therein (reproduced below with the Examiner’s hand drawn markings)⁶ as allegedly disclosing the claimed subject matter.

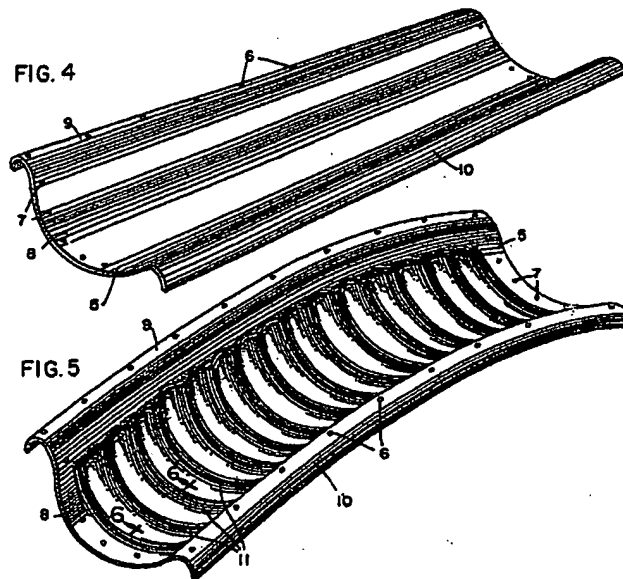
⁶ FIG. 2 of DE ‘709 as marked up by the Examiner was provided with the Office Action of November 17, 2006.



In particular, the Examiner alleges that feature 3 (perhaps intended to mean feature 2) corresponds to the claimed curved central portion, that the four features labeled “S” correspond to the claimed sidewall portions, and that feature 3 corresponds to the claimed complementary wing portions. However, it is readily apparent that that DE ‘709 does not disclose side wall portions comprising straight portions that extend tangentially from a concave-shaped curved central portion since none of the features labeled “S” in Fig. 2 constitute straight side wall features that extend tangentially from a concave-shaped curved central portion as claimed. Rather, the inner features labeled S are not straight, and the outer features labeled S (even if straight, for the sake of argument) do not extend tangentially from a concave-shaped curved central portion (rather, there is a substantial change of curvature from the central portion to the outer features labeled S). Accordingly, DE ‘709 does not anticipate claim 1 for at least this reason (nor would it anticipate claim 15 for at least the same reason). Claim 12 is distinguishable at least by virtue of its dependency from claim 1. Withdrawal of the rejection is respectfully requested for at least this reason.

With regard to GB ‘062, the Examiner refers to features shown in Figs. 4 and 5 therein (reproduced below) as allegedly disclosing the claimed subject matter. In particular, the Examiner alleges that feature 8 corresponds to the claimed curved central portion, that features 5

and 7 correspond to the claimed pair of side wall portions, and that features 9 and 10 correspond to the claimed complementary wing portions.



However, it is readily apparent that that GB '062 does not disclose side wall portions comprising straight portions that extend tangentially from a concave-shaped curved central portion since the alleged side wall portions do not constitute straight side wall features that extend tangentially from a concave-shaped curved central portion as claimed. The regions identified by the Examiner as alleged side wall portions are curved and contain no straight portions, nor is there any other straight portion that extends tangentially from a concave-shaped curved central portion as claimed. Moreover, features 5 and 7 alleged by the Examiner to constitute side wall portions are actually referred to in GB '062 as "panel member 5" and "bolt holes 7." (*See, e.g.*, GB '062, p. 2, lines 51-60 and 124-125.) Accordingly, GB '062 does not anticipate claim 1 for at least this reason (nor would it anticipate claim 15 for at least the same reason). Claim 12 is

distinguishable at least by virtue of its dependency from claim 1. Withdrawal of the rejection is respectfully requested for at least these reasons.

Claims 4-11, 18 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Albrecht*. This rejection is respectfully traversed.

The Examiner's position in this regard is that the size and angular range of the arc radius is an obvious matter of design choice and that varying the arc radius and angular range of the stiffening rib 92 of *Albrecht* would lead to the claimed subject matter. (Office Action at p. 4.) As an initial matter, these claims are allowable at least by virtue of their dependency from amended claims 1 and 15. In addition, Applicants respectfully submit that the Examiner's position is untenable. For example, *Albrecht* explicitly states, referring to Figs. 3 and 4, therein:

FIG. 3 illustrates the decking unit 74 having three flutes 90, 86 and 90 and two troughs 88, 88. A commercial embodiment of the decking 74 would have coverage width of 36" (91.44 cm). FIG. 4 illustrates a narrower decking unit 74' having two flutes 90, 90 and one central trough 88'. A commercial embodiment of the decking unit 74' would have a coverage width of 24" (60.96 cm). The first, second and third longitudinal stiffener beads 92, 94 and 96 are formed in the sheet metal strips 72 (FIG. 3) and 72' (FIG. 4) in first, second and third regions corresponding, respectively, to the crests 80, the valleys 82 and the webs 84. (*Albrecht*, Col. 5, lines 18-30, emphasis added.)

Applicants fully understand that Figs. 3 and 4 of *Albrecht* may not be drawn exactly to scale, but it is abundantly clear that, in view of the overall widths of the structures illustrated in Figs. 3 and 4, namely 36 inches and 24 inches, respectively, the diameters of the stiffening ribs 92 could not be more than about one inch or so, and perhaps less. The Examiner's suggestion that one of ordinary skill in the art would be motivated to modify the arc radii of the stiffening ribs 92 to fall within the claimed ranges (e.g., 4 – 25 inches) is simply erroneous -- there would be no expectation of success. Such a modification would cause the stiffening ribs 92 to overtake the

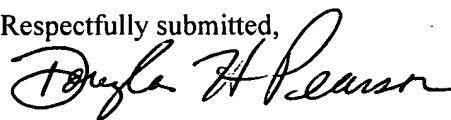
panels in which they are intended to reside. *Albrecht* is directed to forming stiffening ribs in panels by stretching a segment of sheet metal, instead of by drawing-in sheet metal as in the prior art, so as to utilize less sheet metal. (See, e.g., *Albrecht* Abstract.) The essence of that subject matter is to have panel members with stiffening ribs. There would be no expectation of success with the hypothetical modification since such enlarged stiffening ribs would be entirely incompatible with the dimensions of the panels disclosed in *Albrecht*. Claims 4-7, 10, 11 and 18 are allowable for at least this additional reason, and the rejection should be withdrawn.

New claims 28-30 have been added herein to round out the scope of protection sought, and these claims are allowable at least by virtue of dependency.

In light of the above, withdrawal of the rejections of record and allowance of this application are respectfully requested. The Examiner is invited to call the undersigned if a telephone call could help resolve any remaining items.

Date: March 19, 2007

Respectfully submitted,



Douglas H. Pearson

47,851

(Reg. No.)

JONES DAY

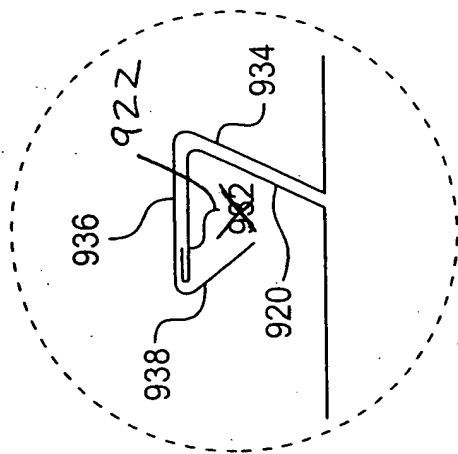
51 Louisiana Avenue, N.W.

Washington, D.C. 20001-2113

(202) 879-3939



FIG. 10A



1000

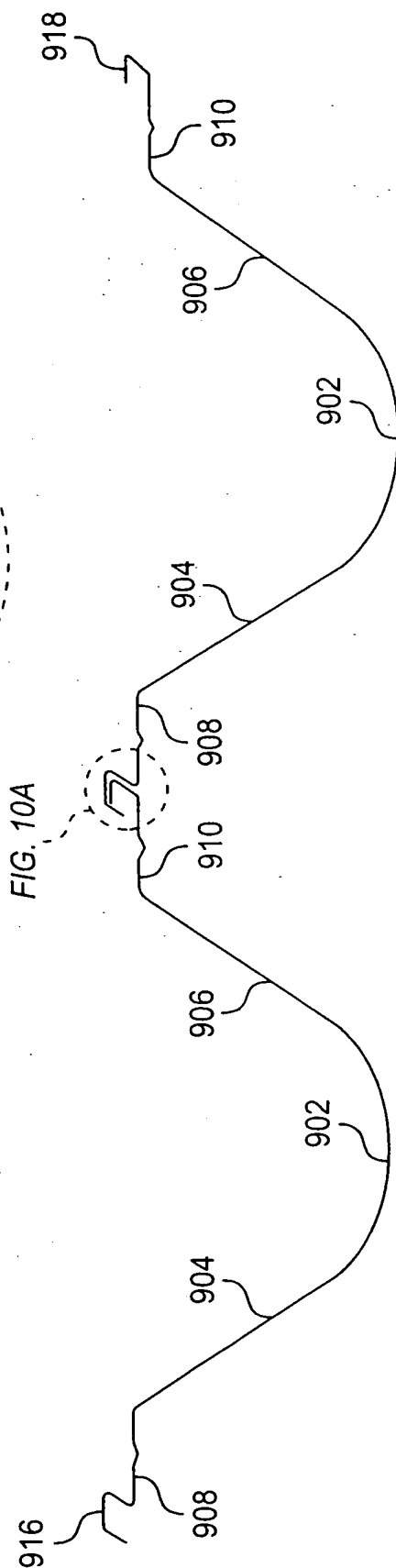


FIG. 10

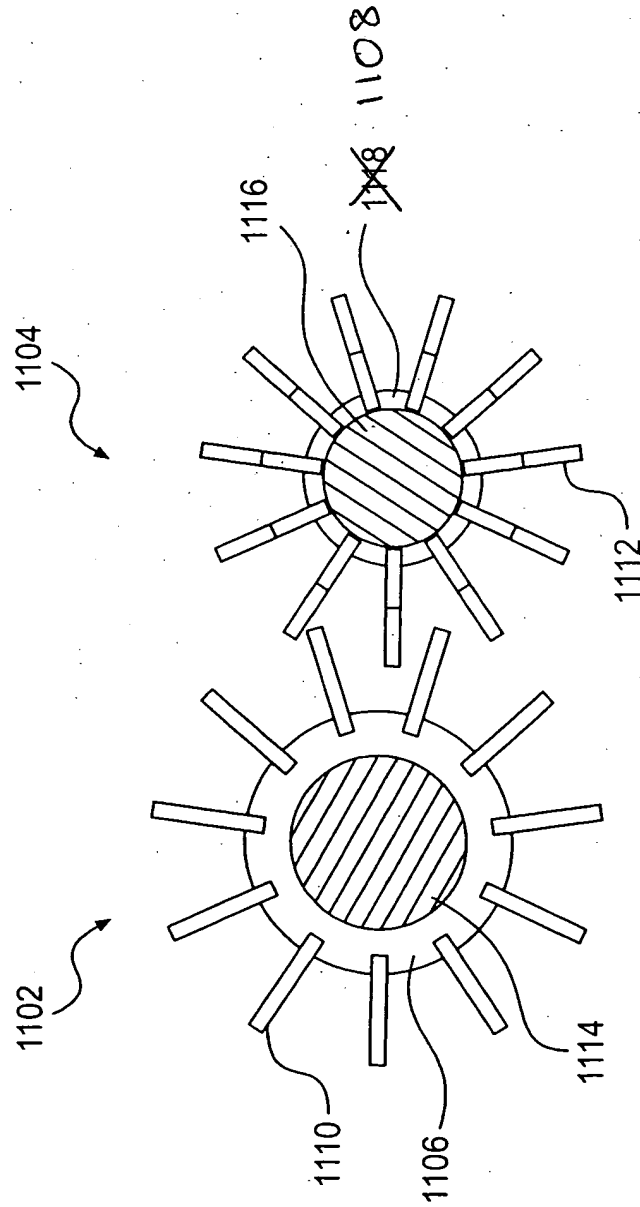


FIG. 12